

assets, the information shall be no less extensive than that required of certain new federal employees under Office of Government Ethics Form 278. Treasury may extend the time necessary to meet these requirements in urgent and compelling circumstances.

(c) *Disqualification.* The retained entity shall disqualify persons with personal conflicts of interests from performing work pursuant to the arrangement unless mitigation measures have neutralized the conflict to the satisfaction of the TARP Chief Compliance Officer. The retained entity may seek a waiver from the TARP Chief Compliance Officer to allow an individual with a personal conflict of interest to work under the arrangement.

(d) *Initial Certification.* No later than ten business days after the effective date of the arrangement, the retained entity shall certify to the Treasury that all management officials and key individuals performing services under the arrangement have no personal conflicts of interest, or are subject to a mitigation plan or waiver approved by Treasury. In making this certification, the retained entity may rely on the information obtained pursuant to paragraph (b) of this section, unless the retained entity knows or should have known that the information provided is false or inaccurate. Treasury may extend the certification deadline in urgent and compelling circumstances.

(e) *Periodic Certification.* No later than one year after the arrangement's effective date, and at least annually thereafter, the retained entity shall renew the certification required by paragraph (d) of this section. The retained entity shall provide more frequent certifications to Treasury when requested.

(f) *Retained Entities' Responsibilities.* The retained entity shall adopt and implement procedures designed to discover, monitor, and report personal conflicts of interest on a continuous basis.

(g) *Subsequent notification.* Within five business days after learning of a personal conflict of interest, the retained entity shall notify Treasury of the conflict and describe the steps it has taken and will take in the future to neutralize the conflict.

(h) *Retention of information.* A retained entity shall retain the information needed to comply with this section and to support the certifications required by this section for three years following termination or expiration of the arrangement, and shall make that information available to Treasury upon request.

§ 31.213 General standards.

(a) During the time period in which a retained entity is seeking an arrangement and during the term of any arrangement, a retained entity, its officers and partners, and its employees shall not:

(1) Accept or solicit favors, gifts, or other items of monetary value from any individual or entity whom the retained entity, officer, partner, or employee knows is seeking official action from the Treasury in connection with the arrangement or has interests which may be substantially affected by the performance or nonperformance of duties to the Treasury under the arrangement.

(2) Improperly use or allow the improper use of Treasury property for the personal benefit of any individual or entity other than the Treasury.

(3) Make any unauthorized promise or commitment on behalf of the Treasury.

(b) Any individual who acts for or on behalf of the Treasury pursuant to an arrangement shall comply with 18 U.S.C. 201, which generally prohibits the direct or indirect acceptance by a public official of anything of value in return for being influenced in, or because of, an official act. Violators are subject to criminal penalties.

(c) Any individual or entity who provides information or makes a certification to the Treasury that is relating to services under EESA or required pursuant to 31 CFR Part 31 is subject to 18 U.S.C. 1001, which generally prohibits the making of any false or fraudulent statement to a federal officer. Upon receipt of information indicating that any individual or entity has violated any provision of title 18 of the

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U.S. Code or other provision of criminal law, Treasury shall refer such information to the Department of Justice and the Special Inspector General provided for under EESA.

(d) A retained entity shall disclose to the Special Inspector General provided for the TARP, or the Treasury Office of the Inspector General, any credible evidence, in connection with the designation, services, or closeout of the arrangement, that a management official, employee, or contractor of the retained entity has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code, or a violation of the civil False Claims Act (31 U.S.C. 3729–3733).

§ 31.214 Limitations on concurrent activities.

Treasury has determined that certain market activities by a retained entity during the arrangement are likely to cause impermissible conflicts of interest. Accordingly, the following restrictions shall apply unless waived pursuant to § 31.215, or Treasury agrees in writing to specific mitigation measures.

(a) If the retained entity assists Treasury in the acquisition, valuation, management, or disposition of specific troubled assets, the retained entity, management officials performing work under the arrangement, and key individuals shall not purchase or offer to purchase such assets from Treasury, or assist anyone else in purchasing or offering to purchase such troubled assets from the Treasury, during the term of its arrangement.

(b) If the retained entity advises Treasury with respect to a program for the purchase of troubled assets, the retained entity, management officials performing work under the arrangement, and key individuals shall not, during the term of the arrangement, sell or offer to sell, or act on behalf of anyone with respect to a sale or offer to sell, any asset to Treasury under the terms of that program.

§ 31.215 Grant of waivers.

The TARP Chief Compliance Officer may waive a requirement under this

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Part that is not otherwise imposed by law when it is clear from the totality of the circumstances that a waiver is in the government's interest.

§ 31.216 Communications with Treasury employees.

(a) *Prohibitions.* During the course of any process for selecting a retained entity (including any process using non-competitive procedures), a retained entity participating in the process and its representatives shall not:

(1) Directly or indirectly make any offer or promise of future employment or business opportunity to, or engage directly or indirectly in any discussion of future employment or business opportunity with, any Treasury employee with personal or direct responsibility for that procurement.

(2) Offer, give, or promise to offer or give, directly or indirectly, any money, gratuity, or other thing of value to any Treasury employee, except as permitted by Government-Wide Ethics Rules, 5 CFR part 2635.

(3) Solicit or obtain from any Treasury employee, directly or indirectly, any information that is not public and was prepared for use by Treasury for the purpose of evaluating an offer, quotation, or response to enter into an arrangement.

(b) *Certification.* Before a retained entity enters a new arrangement, or accepts a modification to an existing arrangement, the retained entity must certify to the following:

(1) The retained entity is aware of the prohibitions of paragraph (a) of this section and, to the best of its knowledge after making reasonable inquiry, the retained entity has no information concerning a violation or possible violation of paragraph (a) of this section.

(2) Each officer, employee, and representative of the retained entity who participated personally and substantially in preparing and submitting a bid, offer, proposal, or request for modification of the arrangement has certified that he or she:

(i) Is familiar with and will comply with the requirements of paragraph (a) of this section; and